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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in Haiti

Report submitted by Mr. Marco Tulio Bruni Celli, Special Rapporteur,
in accordance with Commission resolution 1994/80

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Introduction

1. The Special Rapporteur submitted his interim report on the situation of human rights in Haiti to the General Assembly at its forty-ninth session in New York (A/49/513, 14 October 1994). As indicated at the time, the report submitted to the Assembly had to be handed in by 23 September 1994 for technical reasons and covered only the period from the beginning of the year until that date. It was therefore not possible to make any reference to the events surrounding the return of President Aristide on 15 October 1994, to the subsequent installation of the legitimate Government or to any of the other features, consequences and events that ensued in the framework of the Haitian political process. This report, which supplements the previous one, represents an attempted update of the human rights situation in Haiti and makes a number of recommendations in the light of the most recent developments; it should therefore be read in conjunction with the report submitted to the General Assembly in November 1994.

2. Since submitting his report to the General Assembly, the Special Rapporteur has continued his investigations into the human rights situation in Haiti, maintaining close contacts for that purpose with the United Nations Centre for Human Rights in Geneva, the Inter-American Commission on Human Rights of the Organization of American States (OAS) in Washington, the United Nations/OAS International Civilian Mission to Haiti and other international bodies, as well as non-governmental organizations. He has also received and processed information from various sources. Lastly, the Special Rapporteur, accompanied by an official from the Centre for Human Rights, visited Haiti in pursuance of his mandate from 9 to 14 January 1995. He also had the opportunity on 16 January 1995 in New York to meet Mr. Lakhdar Brahimi, the Special Envoy of the Secretary-General for Haiti, with whom he exchanged views on possible cooperation.

3. During his visit to Haiti, the Special Rapporteur had talks with leading figures representing the various sectors, and with members of the Executive, the Legislature and the Judiciary. He met President Jean-Bertrand Aristide, with whom he talked primarily about the overall human rights situation in Haiti, the establishment and operation of the democratic institutions, the forthcoming elections, national reconciliation, international cooperation programmes, and the establishment and integration of the Commission on Justice and Truth. He also met the following Ministers: Foreign Affairs, Mrs. Claudette Werleigh; Interior, Mr. René Prosper; and Justice, Mr. Ernst Mallebranche; Mr. Clausel Debrosse, President of the Court of Cassation, and other members of that Court; Mrs. Françoise Boucard, designated president of the recently-established Commission on Justice and Truth; Mr. Léon Jeune, Secretary of State for Justice responsible for organizing the new Haitian police force; Mr. Evans Paul, Mayor of Port-au-Prince; Mr. Kesner Michel Thermezi, Government Commissioner for Port-au-Prince; Mr. Frantz Mondé, President of the Chamber of Deputies, who was accompanied by a group of Members of Parliament.

4. The Special Rapporteur also talked with Mr. Rigaud Duplân, President of the Bar Association; directors of non-governmental human rights organizations, such as the Human Rights Platform, represented by: Yolette Andrée Geanty, Executive Secretary of the Platform, Edouard C. Wesbert, Catherine Duhamel,

Claude Ogé Jean, Jean-Claude Jean, Director of the Karl Levequè Institute and Secretary-General of the Platform, and Father Hugo Trieste, of the Haitian Conference of Members of Religious Orders. He met the Director of the Justice and Peace Commission, Mr. Necker Dessable, and Mr. Vevel, representative of the Ecumenical Centre for Human Rights. He also had contacts with representatives of political parties: he visited the headquarters of Konakon, spoke with leaders of the Front national pour le changement et la démocratie (FNCD) (Evans Paul), the Lavalas political organization (Irvelt Chéry) and the Mouvement démocratique national (Hubert de Ronceray). He met Mr. Ross Mountain, Director of the United Nations Development Programme (UNDP) office in Port-au-Prince; Ambassador Colin Grandersen, Executive Director, and Professor Ian Martin, Human Rights Director of the United Nations-OAS International Civilian Mission to Haiti; Mr. Dong, Director of the United Nations Electoral Assistance Office in Haiti; and Colonel Bush and Colonel Warner of the Multinational Forces, who were representing General Fisher, their Commander-General. Finally, the Special Rapporteur had the opportunity to meet and exchange ideas, experiences and comments on the human rights situation in Haiti with a large number of human rights monitors working for the International Civilian Mission to Haiti.

I. SIGNIFICANT POLITICAL EVENTS SINCE 23 SEPTEMBER 1994

A. Political and institutional development

5. As laid down in the agreement between the Carter Mission and the representatives of the military de facto Government, on 15 October 1994 the exiled President, Jean-Bertrand Aristide, returned to Haiti and immediately assumed his high office and responsibilities as Head of State. To replace the interim Government of Robert Malval, which had been in operation since the end of the de facto regime, on 4 November 1994 the President designated as Prime Minister, Mr. Smarck Michel, who, after being approved by Parliament, formed a new Government featuring a broad political spectrum, with ministers from various social and political sectors.

6. These events had been preceded by other very significant developments: on 28 September 1994, Parliament resumed its sessions under the protection of the Multinational Forces; its schedule of legislative work included the consideration of a set of laws designed to restore democratic legitimacy, especially the amnesty law and the law establishing the National Police. On 29 September 1994, after the Mayor of Port-au-Prince, Evans Paul, had resumed office, the legitimate Government regained control of the State radio and television stations. On 4 October 1994, Michel François, Chief of Police in Port-au-Prince, left the country to go into exile in the Dominican Republic; on 13 October General Raoul Cédras and General Biamby, Commander-in-Chief of the Haitian Armed Forces and Chief of Staff respectively, left Haiti for Panama; on 11 October the de facto President, Emile Jonaissant, had relinquished his post, together with the remaining members of the de facto regime, leading to the short term in office of Interim Prime Minister Robert Malval and his Cabinet.

7. Even after the landing and after the Multinational Forces had begun the military operation to ensure public order, in some cases - even in their presence - overt repression by the Haitian soldiers and their civilian allies

against supporters of President Aristide continued in the form of beatings, arbitrary arrests and even killings. Foreign journalists and the crews of international television stations witnessed such events and were able to film them and provide detailed information on them. In Port-au-Prince and in other areas of the country, both urban and rural, violence broke out in the form of clashes between paramilitary groups and the civilian population in general and supporters of President Aristide in particular who were expressing their satisfaction at the restoration of democracy. The Multinational Forces then began an operation aimed at dismantling the repressive paramilitary bodies, arresting those responsible for the violence and taking weapons away from the members of the Front révolutionnaire armé du peuple haïtien (FRAPH), the *attachés* (civilians working with the police) and the populace in general.

8. On 6 October 1994, the Chamber of Deputies adopted the long-awaited Amnesty Act. The scope and consequences of this legal instrument, on whose adoption other political negotiations such as the resignation of the military chiefs and the return of President Aristide had been made conditional, are not clearly established. Article 1 states that the Act amends the old Amnesty Act of 1860, which made the President of the Republic the only official empowered to grant amnesty for political offences, i.e. for offences against the public interest and against the internal and external security of the State, and for related offences as defined in the Penal Code. The Act makes reference to the provisions of the Haitian Constitution of 1987, the Universal Declaration of Human Rights, the American Declaration, the Geneva Conventions and the Amnesty Decree of 8 October 1993 issued by President Aristide in exile.

9. On 28 October 1994, the Chamber of Deputies adopted the National Police (Establishment, Organization and Operation) Act, which had been submitted to it by the Executive for consideration and adoption. The establishment of this civilian police force, under the responsibility of the Ministry of Justice, and its permanent separation from the armed forces are in conformity with a mandate contained in the 1987 Constitution and had already been proposed, in similar terms, by the Government of President Aristide to Parliament before the coup d'état of 1991. Its approval by the parliamentary factions had also reflected a commitment by the political parties under the New York Agreement of July 1993. The interim police force now operating in Haiti will be replaced by the National Police, established by the Act, which will ultimately be composed of graduates of courses and training provided under the International Criminal Investigative Training Assistance Programme (ICITAP).

10. Parliament has also discussed and adopted other laws directly affecting the development of institutions and policies for the protection of human rights: the Act declaring all paramilitary groups illegal and the Territorial Communities Act, which eliminates the former autocratic system of section chiefs and provides for local authorities elected by the people. At the time this report was written, the Electoral Act had not yet been adopted; it will govern the parliamentary elections that will probably be held in April 1995 and the presidential elections scheduled for December 1995.

11. On 17 December 1994, a Presidential Decree established the Commission on Justice and Truth, chaired by Mrs. Françoise Boucard; its functions and membership have not yet been defined and spelled out. According to information obtained by the Special Rapporteur during his visit to Haiti, it

is thought that the Commission will be made up of prominent Haitians and foreigners, and that its essential function will be to investigate the most heinous crimes committed by agents of the de facto regime and to submit a final report on those acts, together with its conclusions and recommendations.

12. Even though the legitimate Government has taken office and the ministries and other government offices have begun to perform their essential functions, there is a noticeable lack of materials and facilities such as furniture, communications, typewriters, paper, etc. Primary and secondary schools have also resumed operation, as has the university. Shops have opened, people are out in the streets and traffic is moving. Petrol and other fuels are being sold normally. The informal selling of food and other goods by Haitians beside the main roads and avenues in the cities is particularly active.

B. The military situation within the Government

13. On 12 October 1994, three days before President Aristide returned, the Office of the Chief of Staff of the Haitian Armed Forces announced that, in view of the imminent departure of General Raoul Cédras, and until President Aristide returned, the Commander-in-Chief of the Haitian Armed Forces would be Major-General Jean-Claude Duperval. On the same day, the Armed Forces Command decided that a group of senior officials who had until then been accompanying General Cédras would be appointed military attachés in Haitian missions and embassies abroad. On 16 October 1994, the day following President Aristide's return, there was a rumour, albeit later officially denied, to the effect that General Duperval was plotting to oust and assassinate the President. In view of popular protests at his occupancy of such a high office, General Duperval was dismissed. President Aristide later appointed General Bernadin Poisson, former chief of the Port-au-Prince fire brigade, as Commander-in-Chief of the Armed Forces, the appointment to be subsequently approved by the Senate. Since then, however, this possibility appears to have been ruled out, and President Aristide is said to be thinking of proposing that Colonel Pierre Cherubin be promoted to the rank of General and put in charge of the Haitian Armed Forces Command. Other military appointments were made by President Aristide on his return: Colonel Pierre Stanislas Neptune was appointed chief of the Port-au-Prince Interim Police and Colonel Dany Toussaint chief of the Interim Police in Petion-Ville.

14. In order to understand President Aristide's military policy, a few events and circumstances should be mentioned. In the first place, since his return the President has been under pressure from public opinion and some of his advisers to abolish the armed forces altogether. The President appears to have opted for the alternative of reducing their size, thus confirming his original plans and accepting the recommendations of the representatives of the Multinational Forces, who have made no secret of their wish to see the Haitian National Forces retained, although they do agree that they should be reduced in number. In fact, after the traumatic dismissal of many officers, non-commissioned officers and privates, which gave rise to violent protests in December, the Haitian National Forces have finally been reduced from 7,000 to 1,500 troops. The headquarters building of the National Forces has been chosen as the site of the recently-established Ministry for the Development of Women. Proof of the general feeling concerning the measures taken by President Aristide with regard to the armed forces is the recent statement by

the (retired) Minister of General Defence, Wilton Lherison, that "the Haitian Armed Forces practically no longer exist". Recently, President Aristide designated a high-level commission to study the restructuring of the Haitian National Forces and propose a programme for that purpose.

15. Even though President Aristide has tried by all possible means to resolve the military issue by appointing officers he trusts to posts at the highest levels, he has nevertheless met with political difficulties. Every time an officer is nominated for high office in the armed forces, incidents relating to human rights violations that have occurred in recent years are deliberately brought up. For example, in addition to the charges against the military personnel who formed General Cédras's entourage during the de facto regime, there are also people who accuse several officers close to President Aristide of committing human rights abuses under the constitutional Government in 1991. These events, circumstances, charges and rumours show how difficult it is for the President to make the necessary decisions and adjustments concerning senior posts in the Haitian National Forces.

C. The question of the recovery of unauthorized weapons and other matters

16. One of the main concerns expressed by various sectors to the Special Rapporteur during his visit to Haiti related to the question of disarming the paramilitary groups and the civilian population in general. During the three years of de facto government, the military organized civilian groups, issued arms to them, trained them and ordered them to carry out various acts involving violations of human rights, particularly during the final months of the de facto regime. Since 19 September 1994, with the arrival of the Multinational Forces many servicemen have deserted, leaving their barracks and taking with them an as yet unspecified number of weapons, including automatic weapons. In addition it has been reported that, on the occasion of the violence perpetrated by discharged members of the armed forces on 26 December 1994, an again unspecified number of weapons were stolen; these have not yet been recovered. All these developments have increased fears that the public have in their hands a stock of weapons about which the authorities have no information and over which they exercise no control.

17. This question of the existence of a quantity of weapons, including automatic weapons, in the hands of the public has been linked to the following other matters which are adding to the concern expressed to the Special Rapporteur, particularly by the democratic sectors:

(a) The steady increase in ordinary crime, related to political crime, the alleged perpetrators being former members of paramilitary groups and the zenglendos (organized bands of armed delinquents). Many state that this increase in crime, although without overt political motivation, is creating a climate of uneasiness and insecurity which is impeding the normal development of the political process and ongoing programmes;

(b) The violence in rural areas (which has caused fatalities) stemming from the continuing lack of clarity with regard to land ownership, banditry, the lack of protection by the authorities, etc.;

(c) The repression still being carried out in small communities in the interior by former members of the Haitian National Forces and a number of former section chiefs, even though this institution has been formally disbanded; and

(d) The covert activity of paramilitary groups which have not been completely dismantled in practice and are allegedly threatening the security of government officials and democratic political leaders.

18. This concern about weapons in the hands of the public in general and members of the old paramilitary groups in particular is influencing political and institutional development. The Special Rapporteur heard the views of various sectors of Haitian society that complain that there is no clear policy on disarming the population on the part of the authorities and the Multinational Forces, and that this is creating a certain climate of suspicion and fear. The undoubted fact that the Haitian Constitution of 1987 authorizes Haitians to keep a weapon in their home is considered by many to be insufficient excuse for tolerating the alleged existence of a large number of automatic military weapons in the hands of the civilian population. Given the proximity of the electoral process and the opening of the voters' register for the parliamentary and local-authority elections scheduled for April 1995 and the presidential election scheduled for December, the widespread fears about the possibility of assassination attempts could have an adverse affect on participation by citizens, who may not register because of their fear of assassination attempts or other types of violence. There are also suspicions and open comments about the fact that members of the Front révolutionnaire armé du peuple haïtien (FRAPH) and the former Ninjas, or bodyguards of General Cedrás, have buried a considerable number of automatic weapons while awaiting the opportunity to use them as part of a plot, depending on circumstances, to overthrow the democratic Government. Past experience in Haiti lends weight to these fears.

19. Alongside these observations on concern about the existence of weapons in the hands of the civilian population, we have to place on record a number of positive reports on the subject received directly from various sources by the Special Rapporteur:

(a) As of 9 January 1995, the Multinational Forces had collected (through confiscation or buy-back) a total of 20,345 weapons, including 5,853 grenades and 1,736 machine-guns;

(b) The Multinational Forces are maintaining a permanent unit for intelligence and registration of vehicles in an effort to find and confiscate weapons presumed hidden;

(c) President Aristide and the United Nations officials in Haiti have asked the Multinational Forces and other monitoring and public-order bodies to continue and reinforce their operations aimed at disarming the civilian population.

20. In addition to the disarmament question, other matters of concern to democratic political sectors in Haiti were mentioned to the Special Rapporteur during his visit:

(a) The presence in Haiti - where they are acting freely and with impunity - of persons alleged to have perpetrated serious violations of human rights during the de facto regime;

(b) The lack of concern for, and supervision of, detention centres and prisons by the Multinational Forces, to the extent that a considerable number of prisoners, generally common criminals, have escaped during the past three months; and

(c) In some parts of the country, for unknown reasons, the Multinational Forces have in certain cases allegedly cooperated with Haitian soldiers in repressive actions.

D. The delay in cooperation and development programmes

21. Another subject of intense concern noted by the Special Rapporteur in the course of his visit to Haiti is the slowness of international cooperation programmes. Not only because it is the poorest country in the hemisphere, but also because its economy has been held in check during so many years of political crisis, corruption, looting and indifference, Haiti requires immediate social and economic assistance. It lacks the most basic facilities: drinking water, electricity, health services, sanitation, hospitals, roads and highways, communications, transport, schools. The administration of justice is virtually at a standstill. The people have no work, inadequate housing and insufficient food. The prices of basic foodstuffs have increased sharply, while unemployment rates remain high and most of the population eke out a living within the informal economy.

22. The return to democracy and the repeated promises of help have created high public expectations. As is well known, the various international organizations (UNDP, WHO, IMF, UNICEF and UNESCO), with the support of NGOs, defying and even in some cases overcoming the huge difficulties that existed under the de facto regime, have carried out research work and prepared development programmes. Consequently, there are programmes and projects that have already been prepared by experts and are ready for execution.

23. At the present stage of political development in Haiti, appreciation and justification of democracy cannot be ensured solely on the basis of guarantees of freedom and observance of civil and political rights, as might be the case in other societies. In these circumstances, the capacity of the State to respond to and resolve the most urgent social and economic problems is of crucial importance. And through force of circumstances, valuation gives way to practicalities, and democracy, in order to establish itself, must necessarily become a source of goods and services for the direct benefit of the population. If genuine assistance is to be provided for the creation and stability of a democratic society, a start must be made immediately, and with the highest priority, on the international social and economic cooperation, aid and assistance programmes.

II. INTERNATIONAL ACTION AND MONITORING IN THE FIELD OF POLITICAL DEVELOPMENT AND HUMAN RIGHTS

24. International action and monitoring in Haiti in the field of political development and human rights since September 1994 have been particularly intensive. Various international institutions have been working on this operation, with different components, responsibilities and mandates. Some of them are listed below.

A. The Multinational Forces (MNF)

25. On 19 September 1994, the Multinational Forces authorized under United Nations Security Council resolution 940 (1994) and led by military personnel from the United States of America, and also comprising units from Antigua and Barbuda, the Bahamas, Bangladesh, Barbados, Belize, Costa Rica, Guatemala, Guyana, Jamaica, and Trinidad and Tobago, entered Haiti with a specific mandate "to use all necessary means to facilitate the departure from Haiti of the military leadership, consistent with the Governors Island Agreement, the prompt return of the legitimately elected President and the restoration of the legitimate authorities of the Government of Haiti, and to establish and maintain a secure and stable environment that will permit implementation of the Governors Island Agreement". From over 20,000 in its earliest days, the strength of the Multinational Forces has now fallen to 7,412 troops and 717 international police supervisors (see S/1995/15 of 9 January 1995). The initial undertaking was that, once the Multinational Forces had achieved their objectives, they would be replaced by the United Nations Mission in Haiti (UNMIH), which would obviously also have a military and police component.

26. Even though there has undoubtedly been substantial progress in the internal situation in Haiti from the standpoint of security and public order, the Multinational Forces remain on a state of alert throughout the country, even in the remotest regions. By the end of December 1994, the Multinational Forces had visited 133 districts, had carried out operations in more than 500 localities and were maintaining 27 permanent posts. Under the original pre-established programme, the Multinational Forces will remain in Haiti until 31 March 1995, when they will be permanently replaced by UNMIH.

B. The United Nations Mission in Haiti (UNMIH)

27. As will be recalled, in resolution 940 (1994) the Security Council called for the establishment of an advance team of UNMIH of not more than 60 personnel, including a group of military observers and police officers, with responsibility for establishing means of coordination with the Multinational Forces, monitoring operations and preparing for the deployment of UNMIH upon completion of the mission of the Multinational Forces. Thus, immediately after the military operation of 19 September 1994, the first UNMIH team consisting of 12 military observers arrived in Port-au-Prince. On 29 September, the Security Council adopted resolution 944 (1994), in which it requested the Secretary-General to take steps to ensure the immediate completion of the deployment of the observers and other elements of the UNMIH advance team. On 30 September, 7 new members of the Mission arrived in Port-au-Prince and on 5 October they were joined by 30 more. It has been

planned that UNMIH will have civil, military and police components and will be under the control of Mr. Lakhdar Brahimi, Special Envoy of the Secretary-General, and that it will work closely with the International Civilian Mission to Haiti, whose director will report to it directly.

28. The mandate of UNMIH, in accordance with the terms of Security Council resolution 940 (1994), is: to assist the democratic Government of Haiti in sustaining the secure and stable conditions established during the initial phase and protecting international personnel and key installations; the professionalization of the Haitian Armed Forces and the creation of a separate police force; and to establish an environment conducive to the holding of the legislative, local-authority and presidential elections. UNMIH is now in its organizational and installation stage and has already begun to prepare for the transition.

C. The International Civilian Mission to Haiti (MICIVIH)

29. On 6 October 1994, the Executive Director and Human Rights Director of the International Civilian Mission to Haiti returned to Port-au-Prince. Later, as from 22 October 1994 the monitors and observers making up MICIVIH began to return. When the Mission resumed operations, it began to receive and process direct information on the situation of human rights. Members of the Mission have travelled into the interior, particularly to the Western, Artibonite, Northern and Central Departments. The reports of MICIVIH have constituted the most direct source of information about the human rights situation in Haiti. The Special Rapporteur had the opportunity to meet the leaders and members of MICIVIH and to discuss the human rights situation in Haiti with them.

30. Once the legitimate Government was re-established in Haiti, it became necessary to revise the mandate and functions of MICIVIH in order to spell out clearly its role within the new political context. On 4 November 1994, talks were held in Washington between Mr. César Gaviria, Secretary-General of OAS, Mr. Lakhdar Brahimi, Special Representative of the Secretary-General of the United Nations in Haiti, Ambassador Colin Granderson, Executive Director of MICIVIH, and other members of the joint United Nations/OAS Working Group. It was agreed on that occasion that MICIVIH would continue to give priority to the verification and promotion of observance of human rights, would make recommendations to the Haitian authorities, would begin a programme of civic education and training, and would help to resolve a number of problems relating to conditions of detention, medical care of victims, the return of displaced persons, etc. It was also stipulated that MICIVIH would closely monitor the forthcoming election campaign, during which it would pay particular attention to observance of the freedoms of expression and association and would be able to attend the counting of votes in an observer capacity. In addition, MICIVIH would contribute to the strengthening of institutions, in particular those whose activities involve human rights. It could also provide assistance to the Truth Commission, the Compensation Commission and the future Ombudsman's Office. Likewise, it could provide support to Haitian non-governmental organizations.

D. Other activities of the United Nations and
the Organization of American States

31. On 23 October 1994, Mr. Lakhdar Brahimi, Special Representative of the Secretary-General of the United Nations for Haiti, accompanied by General Maurice Baril, Military Adviser to the Secretary-General, visited Haiti and met President Aristide. Mr. Brahimi has so far visited Haiti three times in pursuance of his mandate. Once UNMIH takes up its duties as the replacement for the Multinational Forces, Mr. Brahimi will establish its permanent offices in Haiti.

32. On 15 November 1994, Mr. Boutros Boutros-Ghali, Secretary-General of the United Nations, visited Haiti, where he met President Aristide and exchanged views on subjects such as the future activities of UNMIH, national reconciliation, the development of democratic institutions, the revitalization of the Haitian economy, the future of the new police force, the restructuring of the armed forces and the reform of the administration of justice. The President and the Secretary-General also exchanged views on international cooperation, aid and technical assistance for the purpose of the initiation of the country's economic and social development programmes.

33. In October 1994, the Inter-American Commission on Human Rights visited Haiti. Other international organizations are operating within their respective mandates, preparing the development programmes and providing the necessary technical assistance.

III. THE HUMAN RIGHTS SITUATION IN HAITI
AFTER THE RESTORATION OF DEMOCRACY

34. Since the arrival in Haiti, on 19 September 1994, of the Multinational Forces, the end of the de facto regime and the restoration of the democratically elected President, violations of human rights have greatly diminished. Both the major cities and the rural areas are generally calm. State-supported violence against individual Haitians has basically come to an end since the Multinational Forces established their presence in Haiti, and incidents of politically motivated violence and human rights abuses have also decreased dramatically, although isolated individual incidents still occur.

35. The International Civilian Mission, which resumed its activities on 26 October 1994, reported a significant improvement in the human rights situation, in particular in areas where the Multinational Forces had established a climate of freedom and security. The members of grass-roots organizations, who had been forced to live in hiding because of the campaign of terror conducted by the armed forces and paramilitary groups, have mostly emerged and have begun to exercise their fundamental rights of freedom of expression and peaceful assembly. During his visit to Haiti, the Special Rapporteur met with several persons who had previously been in hiding, who told him that they now felt secure in returning to their homes. The Special Rapporteur also witnessed several demonstrations in front of government offices, which were being carried out peacefully.

36. Some outbreaks of violence between Haitians, both politically motivated and criminal in nature, occurred in the days immediately preceding and

following the return of President Aristide. Both anti-Aristide and pro-Aristide individuals were attacked and sometimes killed. These incidents occurred both in Port-au-Prince and in the rest of the country. There were reports that mobs looted and destroyed private homes and shops. In some cases the perpetrators were common criminals, while in other cases they were believed to be supporters of President Aristide. Reportedly, the constitutional authorities reacted promptly to these attacks, denouncing them and taking measures to control them (A/49/689). The number of killings and looting incidents diminished greatly following the return of President Aristide on 15 October 1994, and his repeated calls for reconciliation have been very important in inhibiting human rights violations.

37. Members of Parliament and of political parties who were openly supportive of the military and who had declared their opposition to President Aristide's return are reported to have complained of acts of intimidation and aggression committed against them. Violence in general, however, has not been directed against Haitian government officials and for the most part anti-Aristide Members of Parliament are reported to have been able to attend sessions of Parliament without incident. According to the report by the Secretary-General to the Security Council dated 17 January 1995 (S/1995/46), "No serious danger to the existence of the Government can be identified".

38. According to the report of the Secretary-General to the Security Council (S/1995/46), "Haitians can now enjoy their fundamental rights, in particular freedom of expression, association and assembly. In a number of places, however, particularly in parts of the Artibonite region, people have said that they are afraid to meet or demonstrate, because of continued activities by former 'Front révolutionnaire armé du peuple haïtien' (FRAPH) members or attachés. Politically motivated arrests by local judicial officials associated with 'Front révolutionnaire armé du peuple haïtien' (FRAPH) have occurred, but arrests for the expression of political views have largely ceased. Large numbers of displaced people have come out of hiding and returned to their homes. Overall, there is a feeling of liberty and a sense of security which did not exist previously. This is particularly striking in the areas where the MNF has been deployed."

39. However, notwithstanding the above, the Special Rapporteur, during his visit to the country, noted a certain feeling of insecurity and apprehension amongst the general population, due, in particular, to the belief that the dismantling and disarmament of the paramilitary groups has not been vigorously pursued. While no one knows the exact number of arms still in the hands of former members of FRAPH, the attachés, etc., the common belief is that many such weapons remain hidden. The Special Rapporteur raised this issue with members of the Multinational Forces, who informed him that, when provided with credible intelligence, the Multinational Forces continue to conduct raids and confiscate any weapons found, and to conduct searches of automobiles. Very often, however, no arms are discovered. They also continue to administer an arms buy-back programme. The Special Rapporteur is aware of the difficulty in such an environment of obtaining credible intelligence, and of the risks to the personnel involved of undertaking such raids. He feels, however, that disarming the population is of the utmost importance to providing a secure environment and preventing a future risk of instability.

40. Concern was expressed about violent crime in both the capital of Port-au-Prince and in rural areas. The Special Rapporteur, during his visit, was told that murders were reported almost daily in the capital and the countryside, as was the extortion of money and goods from local merchants by unidentified gangs. The Special Rapporteur believes that there is little indication that such incidents are politically motivated, even though those involved are often alleged to have been members of paramilitary groups. In so much as members of the FRAPH and the attachés were recruited from amongst criminal elements, and these acts are often committed with high-calibre firearms, including automatic weapons, this is not implausible. While, in the rural areas, the formal abolition of the section chiefs has ended the repressive practices in most of the countryside, it has also created a power vacuum in which the lack of authority has created an atmosphere of insecurity.

41. During his visit to Haiti, the Special Rapporteur was told that in some rural areas, despite the formal abolition of the institution on 28 October 1994, some abusive former section chiefs and bands of former FRAPH/attachés continue to wield power and impose their will on the local population. Land conflicts, many of which are of long standing, were also reported to the Special Rapporteur to be another source of conflict and violence in some areas, now that people feel free to pursue such disputes, given the absence of members of the armed forces who generally supported one party to the conflict.

42. The total inability of the Haitian judicial system to function effectively and to prosecute human rights violators contributes to the overall sense of insecurity and to the frustration of victims. Such a situation could eventually lead to acts of vengeance by victims of past and present violations.

43. It is clear that the dissolution of the Haitian Armed Forces and the section chiefs has resulted in a security void which has contributed to an increase in banditry and criminality throughout the country. It should be noted, however, that exact statistics on the situation are difficult to determine, given the lack of previous records and the fact that more criminal acts are now being reported to the police and the International Police Monitors, whereas previously recourse to the police was not a viable option for the victim of a crime.

44. Amongst the incidents of violence reported to the Special Rapporteur since the publication of his previous report are the following.

45. Crowds demonstrating for the return of President Aristide and welcoming the arrival of the United States troops were first attacked by uniformed police accompanied by their civilian supporters, the attachés, on 19 September 1994. On 20 September 1994, an even more brutal attack occurred outside Port-au-Prince harbour. A crowd formed, apparently spontaneously, and ran alongside United States army vehicles taking troops in the direction of Port-au-Prince airport. About half an hour later, police appeared, firing their guns into the air, but reportedly also firing directly at the crowd. It has also been alleged that police attacked demonstrators with crowbars, killing one man. At least one other man was believed to have been shot and killed by police. 1/

46. On 24 September 1994, in Cap Haitien, in a brief gun battle, United States soldiers engaged fire with members of the Haitian Armed Forces at the police headquarters in Cap Haitien, killing 10 Haitians and wounding one American soldier.

47. On 29 September 1994, at least 5 people in La Saline, a seaside slum, were killed and more than 60 wounded when an explosive device was tossed into the middle of a crowd of several thousand Haitians celebrating the return to office of the democratically elected mayor of Port-au-Prince. Following this incident, the crowds turned to looting, stripping a nearby warehouse of bags of cement and steel construction rods. They overturned a four-wheel-drive vehicle and stripped it of its wheels and engine parts. On the same day in the coastal town of La Borgne, a mob beat and killed a man believed to be an attaché as he tried to resist arrest.

48. On 9 October 1994, in Dimizaine, approximately 120 kilometres south-west of Port-au-Prince, a truck drove into a crowd demonstrating in favour of President Aristide, killing at least 14 persons. The driver managed to escape. It was believed that he had deliberately driven into the crowd.

49. On 16 October 1994, two supporters of President Aristide were attacked and killed in Cité Soleil by paramilitary forces. Reportedly, they had just returned to Port-au-Prince after months in hiding.

50. On 4 November 1994, the second deputy mayor of Mirebalais was killed. According to the local population, it is believed that former members of the Security Forces, attachés or members of FRAPH were involved.

51. During the month of December 1994, a number of incidents are alleged to have occurred in Artibonite in which zenglendos, together with former members of the military, are said to have engaged in killings and theft, terrorizing the population and creating a sense of insecurity. Livestock is said to have been stolen and then held for ransom. On 22 December 1994, armed groups from Brizard and Barrage are said to have attacked the inhabitants of Jean-Denis, stealing their livestock and shooting into the crowd, killing at least one person. 2/ On 15 December 1994, Nirva Simon was reportedly attacked and robbed by a group of zenglendos as she left church in Gonaives. 3/

52. On 26 December 1994, a disturbance broke out at the armed forces headquarters among members of the force concerned about a reduction in the armed forces and uncertainty about pay and retirement benefits. There was a brief eruption of violence and the Multinational Forces engaged armed members of the armed forces. The incident resulted in three members of the armed forces killed and six wounded (S/1995/15).

53. While the Special Rapporteur was in Haiti, on 12 January 1995, in Gonaives, two members of the United States Special Forces were attacked when they failed to stop their truck at a toll booth. The incident resulted in one of the members of the United States Special Forces and one of their attackers being killed.

IV. CONCLUSIONS

54. In its resolution 1994/80, the Commission on Human Rights expressed its concern about the persistence and worsening of the human rights situation in Haiti and about the increase in acts of violence, drew the attention of the international community to the fate of the Haitian refugees, called upon the States members and other international organizations to intensify their humanitarian assistance, emphasized the importance of cooperation of the International Civilian Mission, OAS and the Special Rapporteur, and requested the Special Rapporteur to submit an interim report to the General Assembly at its forty-ninth session and a final report to the Commission on Human Rights at its fifty-first session. The Rapporteur submitted the interim report to the General Assembly (A/49/513); the present report supplements and should be read in conjunction with that interim report.

55. Throughout 1994, the international community closely monitored the human rights situation in Haiti, as reflected in the large number of meetings, resolutions, statements and reports of: the Secretary-General, Security Council, General Assembly and Commission on Human Rights of the United Nations; the Secretary-General, General Assembly, Ad Hoc Meeting of Ministers for Foreign Affairs and Permanent Council of OAS; the Inter-American Commission on Human Rights, the United Nations/OAS International Civilian Mission, the Friends of the Secretary-General on Haiti, the Special Envoy of the Secretaries-General of the United Nations and OAS, the Special Rapporteur, non-governmental organizations, and so on.

56. Throughout 1994, until the arrival of the Multinational Forces on 19 September 1994, the Haitian military, police, and paramilitary and civilian forces controlled by them committed all kinds of abuses against human rights and fundamental freedoms in the towns and rural areas. In addition to extrajudicial executions, assassinations, disappearances, torture, ill-treatment, arbitrary arrests, threats, harassment and beatings, there were also many rapes of women, including minors, pregnant women and wives, daughters and mothers of opponents of the de facto regime, serious violations of the rights of children, limitation of the freedom of expression, assembly and movement, and so on.

57. The International Civilian Mission to Haiti, which had been evacuated in October 1993, was not able to return until February 1994 and even then was limited to a small portion of its original strength; the fact that it could operate only in the capital diminished its ability to act and provide information. Notwithstanding these limitations, it continued to work with great professionalism and dedication and produced detailed reports that were used as a basis for the decisions taken by the United Nations policy-making bodies. It was later expelled from Haiti, in July 1994, by the de facto Government of Jonassaint. Its leaders and members were able to return to Haiti after the military operation on 19 September 1994 and the Mission is currently carrying out its former functions of dissuasion and information, as well as fulfilling the new responsibilities given it at the joint OAS-United Nations meeting held in Washington on 4 November 1994.

58. The military not only used various means to prevent President Aristide from returning and the legitimately appointed Prime Minister Robert Malval and

his Cabinet from fulfilling their functions, but also, in May 1994, ignoring all the international community's appeals and recommendations, it appointed a new provisional president, whose investiture was of course never recognized by the United Nations, by OAS or by other international bodies and Governments. It was this president appointed by the military who decreed the state of siege following the adoption of Security Council resolution 940 (1994). It was only after the agreements between the Carter Mission and the Haitian military, and the armed operation on 19 September 1994, after Jonassaint had given up and the coup leaders had left the country, that President Aristide was able to return to Haiti, to assume his constitutional responsibilities and appoint his Prime Minister, and to commence, under his direction, the process of political and material reconstruction of Haiti.

59. Throughout 1994, up to 26 September of that year when they were lifted at the request of President Aristide, the economic and other sanctions mandated by the United Nations Security Council, the General Assembly and Permanent Council of OAS, and the Ad Hoc Meeting of OAS Ministers for Foreign Affairs continued to be imposed by the international community against the de facto regime. Although the sanctions admittedly contributed to the solution of the crisis and caused problems for the de facto regime, they were not enough to force the military to honour their commitments and to surrender power. It required other measures, including military action as provided for by Security Council resolution 940 (1994) and an imminent invasion, to bring the Haitian military to accept talks and to negotiate the political settlement which was reached with the Carter Mission on 17 September 1994.

60. Since the departure of the military and the resignation of the de facto regime, followed by the return of President Aristide and the appointment and approval of the new Prime Minister, the situation in Haiti has begun to return to normal. This normalization is attributable to the combination of a number of factors, such as the presence and daily activity throughout the country of the Multinational Forces, the activities of the police monitors, the reduction in the size of the Haitian Armed Forces, and the dismantling and partial disarming of the paramilitary groups, the elimination of the section chiefs, the return of the members of the International Civilian Mission to Haiti, and, presumably, the restoration of the legitimate Government and the appeals by President Aristide to his party members to respect human rights and contribute to reconciliation. These factors have created a new climate of relative tranquillity and hope in which there has been a real decrease in the number of abuses and violations of human rights. Efforts have been made and some success has been achieved in protecting the population, collecting weapons, arresting offenders and other persons who constitute a danger to the normalization of the situation, restoring certain public services and offices, and also providing security for the work of international personnel. The population feels more secure, shops have opened and schools have begun to function.

61. There are, however, other matters of concern, which have been mentioned to the Special Rapporteur:

(a) Persistence of the problem of delinquency, which the people attribute to unemployment, the high cost of living, the activities of former members of the paramilitary groups and the weapons which have not yet been collected by the State;

(b) In the rural areas, more than in the towns, acts of violence and abuses of human rights continue to take place; they are attributed by the population to ill-defined property rights, the presence and power of the former section chiefs who in some remote areas are still terrorizing the population, the absence of police and officials, etc.;

(c) Many feel that much more should be done to dismantle and disarm the former paramilitary bodies and the zenglendos;

(d) There are complaints that the Haitian Armed Forces, the provisional police, the government offices and even the candidates to be trained as members of the new Haitian police include persons who only recently committed serious crimes against human rights;

(e) The administration of justice is encountering all kinds of technical and material difficulties, to the point of being virtually at a standstill;

(f) The prison system is still in deplorable condition, with no medical care for prisoners, no food except that supplied by relatives or friends, ignorance, on the part of prisoners, of the reason for their detention, etc.;

(g) Programmes of assistance and cooperation, particularly those providing services to meet the population's most urgent needs, such as water, sanitation, electricity, jobs and public health services, have not yet begun to be implemented.

62. Serious efforts are being made - although in some cases they have only just commenced - to establish and develop essential institutions:

(a) Work has begun on the establishment of a new police force to replace the interim police. The new force has been provided for by legislation, and training of its personnel is starting in the new police academy set up with the assistance of ICITAP;

(b) The modernization of the Haitian Armed Forces has begun under the supervision of the committee specially appointed for the purpose by President Aristide. This modernization includes both technical training and instruction in respect for human rights;

(c) A decree has been issued establishing the Commission on Truth and Justice, the membership and functions of which have not as yet, however, been fully defined;

(d) An electoral board has been appointed to organize the holding of parliamentary and local-government elections in April 1995 and the presidential elections scheduled for December 1995;

(e) The old institution known as the section chiefs has been abolished and new local-government legislation has been enacted;

(f) The paramilitary groups and other similar bodies have been abolished and declared illegal.

V. RECOMMENDATIONS

63. The following are the recommendations of the Special Rapporteur:

(a) That the Commission on Human Rights should once again condemn the cruel and systematic human rights violations experienced by many Haitian citizens under the de facto military regime and express its satisfaction at the legitimate Government's decision to appoint the Commission on Truth and Justice to investigate the facts, determine individual responsibility and recommend fair compensation for the victims;

(b) That the Commission on Human Rights should express its satisfaction at the consistent effort of the international community to resolve the question concerning Haiti, as reflected throughout 1994 by the many meetings, resolutions, statements and reports of the United Nations Secretary-General, the Security Council, the General Assembly and other United Nations bodies, organs and agencies; the General Assembly, the Ad Hoc Meeting of Ministers for Foreign Affairs and the Permanent Council of OAS; the Special Envoy of the Secretaries-General of the United Nations and OAS; the Inter-American Commission on Human Rights; and other international organizations;

(c) That the Commission on Human Rights should express its satisfaction at the cooperation established between various bodies of the United Nations and of the inter-American system, and between the latter and the Governments of democratic countries in Latin America and other parts of the world, with the objective of helping to resolve the Haitian political crisis, condemning and reporting on the human rights situation, implementing the sanctions against the de facto regime, establishing the Multinational Forces, restoring normal democratic conditions, and creating a climate and conditions conducive to respect for the will of the people and the safeguarding of the human rights and fundamental freedoms of the Haitian people;

(d) That the Commission on Human Rights should express special gratitude to the Special Envoy of the Secretaries-General of the United Nations and OAS for his intensive and useful work; to the International Civilian Mission; to the Inter-American Commission on Human Rights; to the Multinational Forces; to the members of the advance team of UNMIH; to international development organizations; to other bodies of the United Nations and OAS; to the Governments of the countries Friends of the Secretary-General on Haiti, etc., whose joint efforts led to the restoration of the legitimate authorities and paved the way for the future political, social and economic development of Haiti;

(e) That the Commission on Human Rights should reaffirm what it has already stated in earlier resolutions on Haiti to the effect that the political changes that have occurred with the end of the de facto military regime and the return of the legitimate authorities constitute only the beginning of a process which should culminate in the structural and cultural changes necessary to promote and ensure respect for human rights. Particular activities that should be initiated or completed as soon as possible include improvement of the administration of justice and of the prison system; the updating of civil and criminal legislation; the complete separation of the police from the armed forces and the establishment of a civilian police force subordinate to the Ministry of Justice; the complete elimination of the old

institution of section chiefs and the establishment of a system of local administration based on community participation, the rule of law and democratic procedures; the legal and administrative solution of the persistent problem of disputes concerning land ownership; the genuine separation of, and mutual respect for, the various powers of the State; and the implementation of social and economic programmes to improve the deplorable living conditions of the vast majority of the population. International, multilateral and bilateral cooperation programmes are required if these activities are to be promoted with the urgency called for by the situation;

(f) That the Commission on Human Rights should request the United Nations High Commissioner for Human Rights to ensure that - under his direction and coordination and with the participation of the Inter-American Commission on Human Rights, the Inter-American Institute of Human Rights, the United Nations Centre for Human Rights, the International Civilian Mission to Haiti, the Special Rapporteur and other international bodies and organizations concerned with human rights - the situation is evaluated and studied, priorities are established, programmes are formulated, guidance is provided for future activities, responsibilities are defined and assigned, and coordinated activities are initiated as soon as possible in the human rights field.

(g) That, in view of the characteristics of the situation in Haiti and in order to facilitate respect for human rights and keep United Nations bodies apprised of the situation, monitoring by the Commission on Human Rights should continue, cooperation should proceed in programmes under way and the question should be dealt with under the item "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

64. These are the recommendations submitted by the Special Rapporteur after taking up the mandate of the Commission on Human Rights and having received and processed information, and having visited the country and studied the situation of human rights and fundamental freedoms in Haiti throughout 1994. The Special Rapporteur deems it appropriate to continue monitoring carefully the political, economic and social situation in Haiti and reiterates his conviction that only through aid, cooperation and international technical assistance, particularly in the fields of economic and social development and institution-building, as well as the establishment of a culture of respect for human rights, can the conditions for the future democratic development of Haiti be established.

Notes

1/ Amnesty International, AMR 36/46/94, 21 September 1994.

2/ Commission on Justice and Peace, Report No. PS/94-8, 24 December 1994.

3/ Commission on Justice and Peace, Report No. CD/94-28.
